

**NOSB TESTIMONY-JUNE 6, 2000**  
**GEORGE SIEMON-CROPP COOPERATIVE**

Coulee Region Organic Produce Pool is one of the oldest and is the largest cooperative of certified organic farmers in the US. CROPP now represents over 250 certified organic dairy, egg, produce and meat producers, in 12 states, marketing our Organic Valley and Valley's Family of Farms products across the US.

We appreciate the work of the NOSB in the important role that you have in safeguarding the organic label. While it has been a long painful process I think we would all agree that we have made significant gains and the unification of organic standards has been greatly aided by the NOSB process. Leadership in our cooperative has participated in the detailed discussions and process from prior to the passing of OFPA to the present.

Organic livestock, especially dairy, provides a very complex certification challenge in that it encompasses the standards from crops through livestock to processing. Organic livestock has the additional complexity of humane consideration and how to regulate such a subjective yet crucial value. Modern livestock like modern crop production is built around principles alien to organic principles yet this is the model that we are beginning with. We in designing organic standards must allow a process for livestock operations to continually incorporate organic principles into the operation.

We at CROPP believe there are key areas, which directly affect our farmers and our partners in the industry, that need to be addressed before a final rule is published and promulgated. I've tried to limit my comments to the issues NOSB is considering and major concerns with the NOP. They are as follows:

**ENTRY HERD CLAUSE FOR DAIRY**-This clause is a 'deal breaker' for the organic dairy industry. The need for this clause is complex and CROPP applauds the NOSB livestock committee's support for this standard.

CROPP supports the American Organic Standard provision for a one time entry new herd clause:

6.4.1.2.B. One time new herd conversion. When an entire, distinct dairy herd is converted to organic production, the certification agent may grant the following exemption:

6.4.1.2.B.1. During the first 9 months (270 days) of the 12 month conversion period, up to 20% of the daily ration, (as measured on an "as is" basis), may consist of non-organic feed, with the remaining 80% of the ration composed of certified organic feed or feed produced on-farm that is eligible for certification prior to the final 90 day period. Animals must be fed 100% certified organic feed for at least the final 3 months (90 days) prior to the production of milk or milk products to be sold, labeled, or represented as organic.

**NOSB's PROPOSAL**- CROPP is willing to support the clause under consideration by NOSB allowing animals and crops to be qualified at the end of a three year transition to certified organic plus a 90 day period of 100% certified organic feed as an alternative to the above OTA/AOS wording. The concern is this is actually a more lenient standard and is unproven in practice as compared to the OTA/AOS wording.

**CROPP Rationale:** CROPP Cooperative has testified dozen times over the years advocating the difficult standard issue of an 'entry herd clause' into organic milk production. As we have previously and tirelessly testified, this is an issue of extreme concern among organic dairy producers especially amongst the small and medium existing dairy producers. As you know the new herd standard is the norm in private and State certification standards. Enclosed are supporting documents to the importance of this standard. The basis of this topic can be summed up quite simply as 'a barrier to participate in organic dairy' for small and medium dairy farms.

**LIVESTOCK MATERIALS**-There is a great deal of concern over the completion of the materials review prior to implementation. This is a major job that the organic livestock producers need the help of the NOSB and the NOP to sort through the maze of materials and brand names. Producers are very frustrated in their research to get disclosure of materials makeup especially in determining GMO origin. Due to the large number of feed additives and herd health inputs CROPP supports the OTA response that defines crucial materials such as Vitamins and Vaccines for livestock health that would allow a temporary allowance.

**OTA wording on temporary allowance:**

(b) The producer of an organic operation must not:

(7) Use feed, feed supplements, and feed additives produced with excluded methods, except that

(i) If non-GMO sources of vitamins have not been developed, submitted, and approved for inclusion on the National List by the time of implementation of OFPA, there should be temporary allowance, for the welfare of the livestock, of vitamins with carriers or manufacturing techniques that may include GMOs.

(c) The producer of an organic livestock operation must not:

(8) Use animal drugs produced with excluded methods, except that

(i) If non-GMO sources of vaccines and biologics have not been developed, submitted, and approved for inclusion on the National List by the time of implementation of OFPA, there should be temporary allowance, for the welfare of the livestock, of vaccines and biologics with carriers or manufacturing techniques that may include GMOs.

**CROPP Rationale:** We propose the addition of (7). This section as proposed does not prohibit the use of genetically modified feed supplements or additives.

The preamble states that organic does not include GMOs. CROPP agrees that vitamins should be GMO-free. We have a grave concern, however, that especially vitamins will be unavailable for the welfare of the livestock when the Law is implemented if there is not some sort of sunset allowance until non-GMO sources are developed. We support a temporary allowance until non-GMO sources of vitamins are approved and included on the National List.

**FEED ADDITIVES**-As stated above in the materials section CROPP is very concerned about completing the material list review. Sourcing materials that are approved on the list will require an infrastructure development and we are concerned that in this development that producers continue to have the tools/materials to ensure livestock health.

**5% IN LIVESTOCK FEED**- NOSB is considering utilizing a 95/5 rule in allowance of feed additives that is confused by the definition of feed additives and the different rations for different species.

**AMINO ACIDS**-CROPP supports the OTA recommendations on amino acids supporting a case by case approval. As stated our concern is commercial availability of these crucial materials which have a direct affect on livestock health.

**CROPP Rationale:** We propose the addition of this temporary allowance. The section dealing with this as proposed does not prohibit the use of genetically modified animal drugs. The preamble states that organic does not include GMOs. CROPP agrees that animal drugs should be GMO-free. We have grave concern, however, that especially vaccines and biologics will be unavailable for the welfare of the livestock when the Law is implemented if there is not some sort of sunset allowance until non-GMO sources are developed. We support a temporary allowance until non-GMO sources of vitamins are approved and included on the National List.

**PHYSICAL ALTERATIONS**-CROPP supports the NOP proposed wording and hopes that NOSB supports this approach to relate these practices to the basis of livestock welfare and stress reduction.

**CROPP Rationale:** We applaud the inclusion of a standard regarding animal welfare and physical alterations. We believe this language stresses the appropriate, allowable reasons and conditions for performing physical alterations on domesticated livestock being raised for food or for the production of food.

Physical alterations for the welfare of the livestock, such as dehorning of cattle, castration of male mammals, teeth clipping in hogs, tail docking in lambs, beak trimming of laying hens and toe clipping of turkeys are examples of practices currently in use in the organic livestock industry. All of these involve some degree of pain and stress to the livestock, which is balanced against the pain and stress resulting from not using these methods. The need for physical alterations can be reduced, but not eliminated in all cases, within an organic system using good organic management with adequate space, living conditions, and nutrition for the livestock, as documented in the organic farm plan.

The preamble states, "Certifying agents will need objective, verifiable methods to determine whether a producer is fulfilling the livestock management conditions established in the organic system plan. Such methods may include physiological or behavioral approaches to measuring stress and may be directed at individual animals or larger groups such as herds or flocks." We question the concept of finding objective measures for quantifying stress to the animal in performing physical alterations. Conversely, "objective measures" would have to be applied in measuring the pain and stress resulting from *not* using the physical alteration. The Proposed Rule states in 205.238 Livestock health care practice: "(a) The producer **must** establish and maintain preventive livestock health care practices, including (5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress;" (bold emphasis ours).

**PASTURE FOR RUMINANTS**-This requirement is an important organic principle for organic livestock production. The implementation of this though brings up all kinds of concerns with the regional and individual farm variation that certifiers will have to address. CROPP supports the OTA/AOS definition of pasture as well as the inclusion of stage of production. CROPP agrees that using 'pasture based' is the best way to deal with this as a farm plan process

**OTA response 205.239 Livestock living conditions**

(a)(2) Access to pasture for ruminants;

AOS 6.5.3.1 Lands on which livestock are grazed or pastured shall be certified, and the Organic Plan shall contain management measures designed to maximize edible forage throughout the grazing season, establish appropriate stocking rates, and maintain or improve soil fertility and range land health, as approved by the certification agent.

**CROPP Rationale:** No definition of pasture is included in the Subpart A definitions. CROPP Cooperative recommends addition of the AOS definition to the definitions section and also to body of Rule.

Requirement of access to pasture for ruminants, in our interpretation, implies the same conditions for temporary lack of access to pasture as are specified for temporary confinement: "(b) The producer of an organic livestock operation may provide temporary confinement for an animal because of: (1) Inclement weather; (2) The animal's stage of production; (3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or (4) risk to soil or water quality."

**Stage of Production rationale:** Livestock of all species pass through different stages in their productive lives. Each stage/age has an optimum management system that enhances the livestock well-being. Stage of production was added to allow a narrow variable in developing and implementing the organic livestock plan. The Proposed Rule clearly sets a course of no confinement, requiring a pasture-based ruminant production system and suitable living conditions, with only temporary variances. There is no allowance of a permanent on-going farm plan that denies these basic livestock well-being requirements. Livestock production, however, can be very complex; a dairy, for example, may have 7-8 distinct age groups on one farm, with different management requirements. A group of young calves might appropriately be temporarily housed indoors in order to maximize the use of the whole farm and the available pastures. A temporary stage of production variance is appropriate within the context of the organic farm plan that assures such variance is only temporary.

Stage of production should not be interpreted to allow production animals such as lactating dairy animals or beef animals on finishing feed to be routinely confined or denied access to pasture, except under the other allowances proposed in 205.239 (b) (1), (3), and (4)

**LABELING**-CROPP is opposed to the requirement of labeling '% organic' in the organic label (95% and above) but we do support the optional use for that label. CROPP does support the requirement of labeling for the % organic for all labels under the organic label (95% and above). These positions are dependent on the requirement that all organic products must source organic ingredients if commercially available as recommended by NOSB.

**CROPP Rationale:** Forcing the % in the organic label is unnecessary if organic ingredients are required if commercially available. Requiring the % will confuse consumers for products such as cheese and milk, which will now be labeled 99% organic. Below are further comments, which support the concern with this whole section:

OTA recommendations: 205.301(b)OTA recommends NOP adoption of the following policy for use in its program manuals for determining commercial unavailability:

Determination of Commercial Non-Availability of Organic Ingredients

I. Documentation of Non-Availability

A. Applicant must submit written report to certifier as part of the Organic Handling Plan that lists:

1. Known sources of ingredient, and organic status or lack thereof.
2. Written evidence of effort to locate sources of organic ingredients: including letters and phone logs of discussions with suppliers. In discussions with suppliers, it is recommended that at least three suppliers be contacted.
3. Estimate of volume of ingredient needed within specified time if this is a factor in requested allowance of non-organic ingredient.
4. Explanation of how ingredient is used to fulfill an essential function and that there are no acceptable alternatives that may be sourced organically

B. The certification agent must:

1. Verify that the handler has made a good faith effort to source organic ingredients. Evaluate claim that no organic substitutes are available.
2. Keep a list of ingredients that have been granted allowances in non-organic forms.
3. Make this information available to the National Organic Program.
4. Update these lists on a regular basis as ingredients become available in organic form.
5. Investigate availability when new information or complaints are received.
6. Require applicant to update this information in annual Organic handling plan.
7. Require change in label if it determines that sufficient documentation to justify use of a non-organic ingredient is absent. Products without sufficient documentation may not be labeled "organic" but may be labeled as "made with organic ingredients."

II. Complaints

A. If another certifier or handler feels that an ingredient has been allowed as non-organic that is in fact available organically, a written complaint may be filed with the National Organic Program. Complaint should provide specific information regarding organic sources of ingredient in question.

B. The certifier that approved the non-organic use shall have an opportunity to review availability and present evidence for decision. If there continues to be disagreement on the status of the ingredient, the issue shall be resolved using a mediation process.

**Formula configuration problems in 205.302 a 3:** This formula is flawed in calculating solids and liquids. Many solid products are concentrated (powders) and cannot be calculated as an equal to the liquid part. The best example is non-fat dry milk yogurt. In that case you are mixing liquid milk with powder (concentrated milk) where one according to this section would calculate that the powder as 4% according to the proposed formula but on a reconstituted would represent 40% of the dairy in the % organic label. This can be true in many cases and must be revised to base the calculation on a reconstituted single strength is.

Add after 'solid ingredients' on a reconstituted basis if concentrated.

**ORGANIC IN THE BRAND NAME**-CROPP's brand name is Organic Valley. We are concerned with the proposed rule to clarify that brand names with the word organic in their title are not affected if the products sold under the label fly either the '100% organic label' or the 'organic' label. CROPP feels very strongly about this and needs to understand this from the NOP.

Our position is that any brand that has the word organic in it can only be used on products that satisfy either the '100% organic label' or the 'organic' label

**CROPP Rationale:** Brands names including the word 'organic' if used on less than 95% would be misleading to the consumer.